In the High Court for the States of Punjab and Haryana, at Chandigarh.

RSA No.2586 of 1984
Decided on April 25,2007.

Sita Devi etc. LRs of Piara Lal & Dayawanti etc LRs
of Madan lal (since deceased) and others -- Appellants

vs.

Custodian General and others --Respondents.

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R.S.A.No. 2566 of 1984
Decided on April 25,2007

State of Punjab and others --Appellants.

vs.

Piara Lal and others -- Respondents.

Present: Mr. Binderjit Singh,Advocate,for the appellants.

Mr. Manohar Lall,Addl.A.G.Punjab,for the respondents.

Pritam Pal,J:(Oral)

The aforesaid two Regular Second Appeals, i.e. No. 2586 of 1984, filed by the Legal Representatives of plaintiffs/appellants and No. 2566 of 1984 by the State of Punjab, respectively, are directed against judgment and decree dated August 30,1982,passed by learned Sub Judge Ist Class, Bhatinda, whereby a suit for declaration with a consequential relief

of permanent injunction to the effect that the plaintiffs have become the owners in possession of land measuring 10 K-13 M, comprised in khasra No. 834 (which was allotted in lieu of land measuring 8 bighas 7 biswas comprising khasra No. 1410/990 and 991 in consolidation proceedings) situated in Raman and suit for permanent injunction for restraining the defendants from disturbing the peaceful possession of the plaintiffs, was dismissed. Thereafter, the first appeal was filed by the plaintiffs.

The first Appellate Court, vide judgment and decree dated May 23,1984, partly decreed the suit of the plaintiffs holding that the plaintiffs have not been able to prove their ownership on the basis of sale deed dated June 15,1947 inasmuch as the sale deed was never brought on the file, but at the same time, the first Appellate Court granted the relief of permanent injunction restraining the defendants from interfering in the peaceful possession of the plaintiffs over the suit property. Now both the parties feeling aggrieved with the aforesaid impugned judgments and decrees passed by the learned First Appellate Court have come up in their respective aforesaid Regular Second Appeal.

The contention of learned counsel for the plaintiffs/appellants is that by adducing the oral evidence before the trial Court, the plaintiffs have proved themselves to be the owners of the suit property, which their fore-father, namely, Mehar Chand, had purchased from Gulam Din, in the year 1947 vide a registered sale deed dated June 15,1947.

Against this, contention of Mr. Manohar Lall, learned Addl. Advocate General, appearing on behalf of the State of Punjab, is that in fact, the suit property is nowhere proved to have been purchased by the fore-father of the plaintiffs, rather the same being that of the migrated persons, had vested in the Government. His further contention is that the defendants have a right to dispossess the plaintiffs from the suit land in accordance with law.

At this stage, learned counsel for the plaintiffs has stated at the bar that both the appeals may be disposed of with liberty to the plaintiffs/appellants to challenge the right of the defendants for taking possession of the suit property in due course of law under Displaced Persons (Compensation and Rehabilitation), Act,1954.

Since the first Appellate Court had held that the plaintiffs/appellants are in possession of the suit property, but they (plaintiffs) have not been able to prove their ownership, I am not inclined to interfere in any such findings arrived at by the First Appellate Court, but at the same time, taking an over all view of the facts and circumstances of the case, and also the stand taken by the parties, both the appeals are hereby disposed of with the observation that the plaintiffs/appellants, would not be dispossessed from the suit property by the defendants/appellants (State of Punjab) except in due course of law and by following the procedure laid down under the aforesaid Act.

Before parting with this judgment, it is observed that before seeking dispossession of the plaintiffs/appellants from the suit property, the

defendants/appellants will have to prove that the suit property is the evacuee property.

April 25,2007 (Pritam Pal)
RR Judge